

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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CHADWELL HOLT,

Plaintiff,

v.

Case No. 19-cv-877-pp

DCI MARKETING, INC.

Defendant.

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**ORDER REMINDING PLAINTIFF OF OPTION TO FILE AMENDED  
COMPLAINT IN LIEU OF RESPONDING TO DEFENDANT’S MOTION TO  
DISMISS (DKT. NO. 7)**

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On July 3, 2019, the defendant filed a motion to dismiss counts IV, V, VI, and VII of the plaintiff’s complaint for failing to state a claim under Rule 12(b)(6). Dkt. No. 7. The defendant charges that counts four (breach of implied covenant of good faith and fair dealing), five (quantum meruit); six (unjust enrichment) and seven (promissory estoppel) are “simply repackages of Plaintiff’s breach of contract claim, and pre-empted by the FLSA.” Dkt. No. 8 at 1-2.

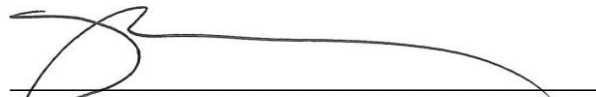
Under Civil Local Rule 7(b), if the plaintiff wishes to oppose the motion, he must do so within twenty-one days—that is, by July 24, 2019. The plaintiff is free to timely file a response to the motion to dismiss, but the court reminds the plaintiff that he has another option—he may file an amended complaint to try to cure the alleged deficiencies. See Runnion ex rel. Runnion v. Girl Scouts of Greater Chi. and Nw. Ind., 786 F.3d 510, 522 (7th Cir. 2015) (explaining that

a responsive amendment may avoid the need to decide the motion or reduce the number of issues to be decided). Federal Rule of Civil Procedure 15(a)(1) allows the plaintiff to file the amended complaint as a matter of course within twenty-one days after service of the responsive pleading.

The court **ORDERS** that by July 24, 2019, the plaintiff either shall file an amended complaint or shall file his response to the partial motion to dismiss.

Dated in Milwaukee, Wisconsin this 10th day of July, 2019.

**BY THE COURT:**

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

**HON. PAMELA PEPPER**  
**United States District Judge**